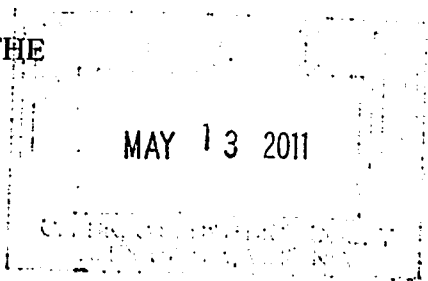


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA

v.

JESSE CURTIS MORTON

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Crim. No. 1:11mj 386

AFFIDAVIT

I, Paula R. Menges, after being duly sworn, depose and state as follows:

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), United States Department of Justice. I have been employed by the FBI for approximately three years, during which time I have been assigned to the Washington Field Office. Before joining the FBI, I obtained a Ph.D. in Immunology from the University of Rochester. I worked in a research laboratory, often analyzing complex processes and experimental results, through a variety of sophisticated techniques. During my time at the Washington Field Office, I have been assigned to an international terrorism squad and worked on international terrorism cases, to include the arrest and successful prosecution of two individuals on terrorism related charges. Additionally, I have completed FBI training in the investigation of counter-terrorism matters, and as a result of my training and experience, I am familiar with the tactics, methods, and techniques of terrorist networks and their members.

2. This affidavit is submitted in support of a criminal complaint charging Jesse Curtis Morton, also known as Younus Abdullah Mohammad, with communicating threats in violation of 18 U.S.C. §§ 875(c) and 2.

3. This affidavit is based on my personal knowledge, my review of records and other materials obtained during the course of this investigation, including intercepted telephone, audio, and in-person communications, as well as information provided to me by other government personnel with knowledge relating to this investigation. Because this affidavit is for the limited purpose of setting forth facts sufficient to establish probable cause, it does not include all of the pertinent facts that I have learned in the course of this investigation.

A. Revolution Muslim and Zachary Chesser

4. Revolution Muslim was formed in early 2008 by Morton and Joseph Cohen, a/k/a "Yousef Al-Khattab," with the publicly stated goals of establishing Islamic law in the U.S., destroying Israel, and taking al-Qaida's messages to the masses. The organization's website, as well as Morton and Cohen, openly stated that Revolution Muslim derived spiritual inspiration from Sheikh Abdullah al-Faisal, a cleric now in Jamaica who preaches the necessity of violent jihad and the virtues of killing kuffars.

5. This case is related to *United States v. Zachary Adam Chesser*, No. 1:10-cr-00395 (E.D. Va. 2010). Chesser is a 21-year old Muslim convert from Fairfax, Virginia. In October 2010, Chesser pled guilty to communicating threats, in violation of 18 U.S.C. § 875(c); attempting to provide material support to a designated foreign terrorist organization - - al-Shabaab - - in violation of 18 U.S.C. § 2339B, and soliciting hoax threats, in violation of 18 U.S.C. §§ 373 and 1038. The § 875(c) charge arose from his posting of materials on the internet that threatened the lives of the writers of the *South Park* television show in retaliation for the broadcast of an episode that Chesser perceived as insulting to Islam. In February 2011, Chesser

was sentenced to 25 years incarceration. The instant case against Morton involves many of the same facts that gave rise to the communicating threats charge against Chesser.

6. Chesser became a prolific poster of extremist materials in 2009 and 2010 on a plethora of websites that catered to extremist Muslims, including RevolutionMuslim.com, "Ansar Al Jihad Network," "Al Fallujah Islamic Forums," "AlQuranWaAlaHadeeth." and "AlQimmah." In his efforts to engage in what he called "Open Source Jihad," he spread the incendiary rhetoric of Anwar Al-Awlaki, and encouraged Muslims to fight against unbelievers in general and the United States in particular. He posted hundreds of articles and books online in support of violent jihad, including the "Al Qaeda Manual," setting forth instructions concerning such subjects as "Communications," "Weapons Acquisition and Storage," and "Guidelines for Beating and Killing Hostages."

7. In an interview with FBI-WFO after pleading guilty, Chesser stated that he only met Morton once, and that the rest of their communications was by phone and email. Chesser explained that he was first contacted by Morton in approximately January 2010. According to Chesser, Morton had been impressed with Chesser's internet postings, and invited Chesser to post on Revolution Muslim's website. By April 2010, Chesser and Morton were both administrators of that website. According to Chesser, as administrators, they each were able to create, modify and delete any information and/or materials posted to the site.

B. The Danish Cartoons

8. In 2005, a Danish newspaper solicited and published cartoons of the prophet Muhammad to show that Islam should be subject in the press to the same standards as other

religions. As a result of the publication of the cartoons, the cartoonists have since been the object of several murder plots.

9. In March 2008, an Islamist website released what was purported to be a new audio recording of Usama bin Laden. The recording was played in Arabic, with an English translation scrolling across a video of rockets firing and then a still photo of bin Laden holding an AK-47 rifle. In the message, bin Laden threatened the European Union over the re-printing of the Danish cartoons, saying that "if there is no check on the freedom of your words, then let your hearts be open to the freedom of our actions."

C. The South Park Posting

10. On April 14, 2010, Comedy Central broadcast an episode of the *South Park* cable television show that featured a character in a bear costume, who various other characters stated was Muhammad. Based on my review of email records and interviews with Chesser, I know that, in the course of attempting to raise Muslims to anger over the episode, Chesser tried to draw the attention of extremists to individuals I will refer to by the initials "TP" and "MS," the writers of *South Park*. To do so, he posted on Revolution Muslim's website (as well as on a variety of other websites catering to extremist Muslims) audio clips of a sermon by Anwar Al-Awlaki, entitled "The Dust Will Never Settle Down," calling for the assassination of anyone who has "defamed" Muhammad, saying, "Harming Allah and his messenger is a reason to encourage Muslims to kill whoever does that."

11. Chesser also posted the message: "We have to warn [MS] and [TP] that what they are doing is stupid and they will probably wind up like Theo van Gogh for airing this show." Chesser posted a graphic photo of van Gogh's body lying in the street, where he had been

murdered in 2004 for making what the murderer believed was a film that insulted Islam. Chesser posted the street addresses of Comedy Central and its production company in New York and Los Angeles, and a link to a 2009 *Huffington Post* article that gave details (but not the exact address) of a residence of TP and MS in Colorado, and suggested that his readers “pay them a visit.” Chesser’s post engendered significant media attention and public reaction, and was widely perceived as a threat to the safety of TP and MS by implicitly inciting extremists to kill them.

D. The “Clarification” Statement

12. While Chesser came up with the initial posting on the Revolution Muslim website on his own, reporters also contacted Morton for comment on it because Morton was also known to operate Revolution Muslim. As a result, Morton and Chesser each talked with multiple reporters about Revolution Muslim’s position with respect to TP and MS, and coordinated their responses to ensure that their statements were consistent.

13. On the basis of information received from a search of Morton’s email account, court-ordered surveillance, and debriefings of Chesser, I know that, rather than speaking to reporters on an individual basis, Morton and Chesser decided to jointly draft a statement on behalf of Revolution Muslim to be disseminated to the public to further explain their position with respect to TP and MS. After multiple drafts were circulated between Chesser and Morton, this statement ultimately was released to the public on April 21, 2010, under the title “Clarifying the South Park Response and Calling on Others to Join in the Defense of the Prophet Muhammad - RevolutionMuslim.com” (hereinafter “the Clarification Statement”). Although the Clarification Statement was not initially posted on the Revolution Muslim website because the site had by

then been hacked and was temporarily down, the statement was widely disseminated on multiple websites catering to Islamists (as well as later to mainstream media organizations).

14. The Clarification Statement contained pages of justification under Islamic law for the death of those who insult Islam or defame its prophet, and for Muslims to bring about such deaths. In it, Morton and Chesser asserted in pertinent part that “we will never tolerate the mocking or insulting of any one of the prophets,” and explained that the Islamic ruling on this situation was that “the punishment is death.”

15. In the Clarification Statement, Chesser and Morton purported to deny that they were inciting violence:

This [the prior text of the statement] shows that taking this stance [that the punishment is death, and that no judge need be involved in finding guilt] is virtually obligatory, but it does not mean that our taking this stance is in some way an *absolute* call toward the requirement that the creators of South Park must be killed, nor a *deliberate* attempt at incitement, it is only to declare the truth regardless of consequence and to offer an awareness in the mind of Westerners when they consider doing the same thing.

(emphasis added).

16. Later in the statement, they stated:

Thus our position remains that it is likely the creators of South Park will indeed end up like Theo Van Gogh. This is a reality. . . . We are not trying to *directly* incite violence, but we are trying to explain the gravity of the situation and prevent this from occurring ever again.

(emphasis added).

17. In closing, they wrote:

We hope that the creators of South Park may read this and respond, that before sending hate mail and condemning us that we may partake in dialogue, and that the Western media’s degradation of the most blessed of men ceases. Otherwise we warn all that many reactions will not involve

speech, and that defending those that insult, belittle, or degrade the Prophet Muhammad (peace be upon him) is a requirement of the religion. *As Osama bin Laden said with regard to the cartoons of Denmark, "If there is no check in the freedom of your words, then let your hearts be open to the freedom of our actions."*

(emphasis added). The suggestion that the creators of South Park would be on the receiving end of actions analogous to those of bin Laden if they refused to change their ways (and engage with Chesser and Morton), was a threat of violence cognizable under Section 875(c).

E. Chesser, Morton, and the Drafting of the "Clarification Statement"

18. I know from email records obtained by search warrant that Chesser contacted Morton on April 17, 2010, to discuss how to proceed in light of the widespread publicity that the postings had attracted to Revolution Muslim. As Chesser described it, the controversy engendered by the fatwa calling for the killing of Salman Rushdie for his publication of *The Satanic Verses* "was a tremendous help in radicalizing" Muslims in the United Kingdom, and achieving higher visibility for the controversy over *South Park* might do the same for Muslims in the United States.

19. On April 19, 2010, Morton suggested ways that Chesser could draw even more attention to the *South Park* issue in order to "synthesize the general movement of Revolution Muslim along with this particular endeavor." The next day, after considering that an off-the-cuff remark might establish that they intended to incite violence and subject them to criminal culpability, Morton and Chesser decided to stop talking to reporters about the *South Park* matter and issue a written statement instead. They agreed that Chesser would write the first draft and that Morton would then merge that draft with Morton's own writing.

20. On the evening of April 20th, Chesser emailed his first draft to Morton. Chesser's draft stated that the *South Park* writers had insulted Muslims, and "[a]s for the Islamic ruling on

the situation, then this is clear - there is no difference of opinion from those with any degree of a reputation that the punishment is death.” Chesser then included references to the teachings of specific Islamic authorities for the propositions that the penalty for insulting Islam is death, and that it was contrary to Islam to require that the offenders first be brought before a judge.

21. Early the next morning, Morton emailed a revised draft back to Chesser, and suggested that Chesser then post it on Revolution Muslim’s blog.¹ Morton’s revision was far more polished than was Chesser’s initial draft, and included for the first time the reference to bin Laden quoted above. Also, in this draft, Morton inserted for the first time, “[t]hus our position remains that it is likely the creators of South Park will indeed end up like Theo Van Gogh, *and we pray Allah makes this a reality.*” (emphasis added).²

22. Chesser returned a third version to Morton in the early afternoon of April 21st, retaining the bin Laden reference at the end, but changing Morton’s language “[t]hus our position remains that it is likely the creators of South Park will indeed end up like Theo Van Gogh, *and we pray Allah makes this a reality*” to “[t]hus our position remains that it is likely the creators of South Park will indeed end up like Theo Van Gogh. *This is a reality*” (emphasis added).

23. According to the court-ordered intercept of their phone call, the subject of Chesser’s deletion of Morton’s words “*and we pray Allah makes this a reality*” arose in their subsequent telephone conversation. Morton and Chesser were discussing the opportunity that the *South Park*

¹ As noted above, the Revolution Muslim website was down at that time as a result of hacker attacks.

² This reference to van Gogh ties the Clarification Statement back to Chesser’s initial posting, which predicted that TP and MS would end up like the unfortunate Dutchman who made a film that insulted Islam - - and that good Muslims should “*pay them a visit.*”

controversy provided to disseminate the Revolution Muslim message. Chesser said that, as a result of the controversy, Revolution Muslim was then apparently the “68th most searched term on Google.” Morton told Chesser that “it [the *South Park* campaign] was very, very, very strategic so far, but we have to be careful, I don’t want to go to prison to be honest with you.” Chesser responded, “[t]hat’s why I took out your dua [prayer to Allah] in the middle of the article.” Morton then said, “oh, we pray that the obligation is fulfilled. Oops. Yeah, yeah, right. I was a little tired man. I probably didn’t think.”

24. Later that afternoon, Morton returned to Chesser a fourth version of the Clarification Statement with no significant changes. That is the version that was widely distributed by Chesser that evening, including to the AlQimmah website (the website of the designated terrorist group al-Shabaab) and to the Ansar Al Jihad Network - - and later was distributed by Morton as well. A court-authorized intercept of their conversation reflects that Morton agreed to Chesser’s plan to release the Clarification Statement on the Ansar al Jihad Network to “make the kuffar more worried.”

25. On April 22, 2010, Morton disseminated the Clarification Statement with a message decrying that “the media” was turning “a statement of prediction and warning” - - that is to say, the earlier posting predicting that TP and MS would end up like Theo van Gogh, and suggesting that offended Muslims “pay them a visit” - - “into one of threat.” He wrote that “[w]e hold to our views and believe that the Muslims and conscious people everywhere should be helping to spread them” (emphasis added by me).

Relevant Law

26. I am advised that, to prove a violation of § 875(c), the government must establish that the defendant intended to transmit the interstate communication and that the communication contained a true threat. A true threat is a statement in which the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals. The First Amendment does not protect true threats.

27. I am further advised that, to be a true threat, a communication must be a serious threat to inflict physical harm on someone as opposed to a joke, inelegant expression of anger, or political hyperbole. In determining whether the communication contains a true threat, the communication must be viewed in the context in which it is received. Even words and deeds which are not necessarily threatening when viewed in isolation may be rendered threatening by their context.

28. I am further advised that the communication must be viewed using an objective standard, that is, whether an ordinary, reasonable person who is familiar with the context of the communication would interpret it as a threat of injury. Moreover, I need not show that the speaker actually intended to carry out the threat. Accordingly, I need not establish that Morton subjectively intended the Clarification Statement (or even the earlier posting by Chesser) to be a threat. Instead, I need only establish that the communications were such that a reasonable recipient, knowing the context, would perceive it as a threat.

29. I am advised that the fact that the violence might be averted if the victims change their behavior is no defense. Most threats are conditional; they are designed to accomplish something; the threatener hopes that they will accomplish it, so that he won't have to carry out the threats. Therefore, when a communication constitutes a clear and unambiguous threatening

statement, the conditional nature of the statement does not make the statement any less of a true threat simply because a contingency may be involved.

30. The actions of Morton and Chesser were not isolated incidents; they posted the same threatening materials to multiple websites that catered to Muslims that espoused violence against purported enemies of Islam. Despite the self-serving statements of Chesser and Morton that their postings were not “threats,” the evidence indicates that they were threats, indeed. The evidence set forth herein establishes that Morton knew that the Clarification Statement constituted a threat of injury to TP and MS.

31. The most compelling evidence that Morton and Chesser communicated threats against TP and MS is the reference to bin Laden’s quotation with respect to the cartoons of Denmark. It was Morton who added the threat, “[a]s Osama bin Laden said with regard to the cartoons of Denmark, ‘If there is no check in the freedom of your words, then let your hearts be open to the freedom of our actions.’” The cartoonists involved were known to have faced repeated attempts on their lives by al-Qaeda sympathizers since bin Laden first made the statement. Morton’s reference to the statement made by bin Laden - - a statement that was released to the public over a montage of rockets and then a photo of bin Laden holding an AK-47 rifle - - made obvious the violent consequences of any failure of TP and MS to comply with the demands made by Morton and Chesser for TP and MS to “partake in dialogue,” and that “the Western media’s degradation of the most blessed of men ceases.”

32. The threatening nature of the Clarification Statement is magnified by its context in justifying the earlier message, which included a photo of the dead and mutilated van Gogh, who was murdered in the street for making a film that was perceived to have insulted Islam. As

Morton wrote on April 22, 2010, “[w]e hold to our views” - - which was an assertion on behalf of Revolution Muslim that the organization stood by the views that it broadcast with respect to *South Park*. Accordingly, a reasonable person would look at the Clarification Statement with the closing bin Laden quote in the context of the van Gogh photo - - and conclude in an instant that the Clarification Statement was no mere theoretical exegesis on Islamic law, but rather an obvious threat.

33. Moreover, the line authored by Morton but deleted by Chesser from the final version of the Clarification Statement³ establishes that Morton wanted TP and MS to “end up like Theo Van Gogh.” Inasmuch as van Gogh ended up killed in the street by a Muslim who believed that the victim had insulted Islam in the course of making a movie, Morton’s language establishes that he desired that TP and MS be killed for insulting Islam in the course of making a television show. In accordance with the words of bin Laden that Morton inserted into the Clarification Statement, Morton’s prayer reflects that he believed that the hearts of TP and MS were proper recipients of the freedom of Muslim action because there was no check in the freedom of their words. That desire was the motive for disseminating information that Morton knew might well lead to the murder of TP and MS - - and undercuts any defense that he was merely trying only to instruct them in the theoretical application of Islamic law to their situation.

34. Morton was well aware of the threatening nature of the Clarification Statement if for no reason other than that it was but part of a series of threats that individuals at Revolution Muslim made against those the organization perceived to be enemies of Islam. In January 2009,

³ “Thus our position remains that it is likely the creators of *South Park* will indeed end up like Theo Van Gogh, *and we pray Allah makes this a reality.*”

Cohen posted veiled threats to Revolution Muslim's website against Jewish organizations in the United States in response to the institutions' purported funding for Israel amid its offensive against Hamas in the Gaza Strip. Inasmuch as Morton and Cohen were partners in creating Revolution Muslim in 2008, Morton was well aware of the controversy that Cohen created by making those threats. Indeed, when Chessser told Morton on April 20th about the threats he himself was receiving as a result of his *South Park* postings, Morton warned Chessser to keep his address private because Cohen "let his address get out there and the next thing you know the Jews they organized this like protest against al-Qaeda outside his house . . ."

35. The murder of Theo Van Gogh establishes that some Muslims are willing to murder those that they perceive as having insulted Muhammed in making a video. In the context of that murder, the use of bin Laden's statement about the Danish cartoonists clearly reflects the threatening nature of the Clarification Statement. Moreover, both the violent nature of the websites on which the threats were posted and the history of violence in the jihadi movement increased the threatening nature of the postings.

36. Morton knew that the threatening nature of the Clarification Statement was magnified by the websites on which it was posted. For example, on April 21st, Chessser told Morton that he planned to release the Clarification Statement on the Ansar [al Jihad] network "*because that would make the kuffar more worried.*" Moreover, later that day, when both Chessser and Morton thought that the Revolution Muslim site would be back up on line by the next day, Morton told Chessser that he was "welcome to if you want to release it [the Clarification Statement] on Ansar. If you don't want to release it on Ansar then we should wait to release it on our site tomorrow morning."

37. As it turned out, the Clarification Statement was not released on the Revolution Muslim website because that site was down as a result of hacking - - but the Ansar al Jihad Network (as well as the AlQimmah site upon which the Clarification Statement also was posted) catered to Muslims that were of a similarly extreme bent as those that were Revolution Muslim's audience. As evidenced by Chessser's mention to Morton that the Clarification Statement should be posted on the Ansar al Jihad Network "to make the kuffar more worried," Morton and Chessser were well aware that the posting of the Clarification Statement on sites catering to extremist Muslims enhanced the threatening nature of their communication.

38. Morton obviously wanted the creators of *South Park* to be worried by the Clarification Statement. Indeed, Morton publicly stated that his religion commanded him to make disbelievers fearful. Shortly after the threats against the *South Park* creators were posted, CNN broadcast an interview with Morton - using the name Younes Mohammad - - that took place in 2009. That broadcast can still be found on YouTube, at <http://www.youtube.com/watch?v=s4NEGXiIkpQ> &feature=related. Four minutes and 35 seconds into the video, Morton is shown telling the CNN reporter that "we're commanded to terrorize the disbelievers." At that point, the following discussion is shown on the video:

CNN: You're *commanded* to terrorize the disbelievers?

Morton: The Koran says *very* clearly in the Arabic language . . . this means "terrorize them." It's a *command* from Allah.

CNN: So you're commanded to terrorize anybody who doesn't believe. . .

Morton: Doesn't mean . . . You define terrorism as going and killing an innocent civilian. That's what you . . .

CNN: How do *you* define terrorism?

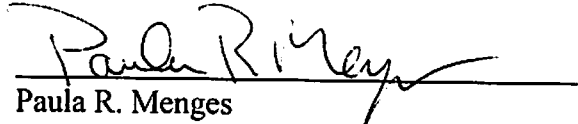
Morton: I define terrorism as making them fearful, so that they think twice before they go rape your mother or kill your brother or go into your land and try to steal your resources.

39. Finally, Morton and Chesser promulgated the Clarification Statement even though they *knew* that it would be received as a threat. Both were aware of the thin line that separates criminal threats from speech protected by the First Amendment, and mentioned the risks of prosecution for their actions on multiple occasions. Nevertheless, they believed that they could incite violence against TP and MS without legal liability as long as they veiled their threats and spoke indirectly. Accordingly, they wrote that the Clarification Statement was not intended to be an “*absolute* call toward the requirement that the creators of South Park must be killed,” and denied that they “*deliberately*” or “*directly*” sought to incite violence. Yet, the careful wording establishes that Morton and Chesser knew that, regardless of whether they intended to issue an *absolute* call to kill TP and MS, they most certainly issued a conditional call to do so. Similarly, regardless of whether Morton and Chesser *deliberately* and *directly* sought to incite violence by issuing that statement, they certainly knew that violence was likely to be incited by it anyway.

Conclusion

40. Based on the foregoing, there is probable cause to believe that, in or about April 2010, Jesse Curtis Morton did knowingly and unlawfully communicate threats in violation of 18 U.S.C. §§ 875(c) and 2.

FURTHER THIS AFFIANT SAYETH NOT.


Paula R. Menges
Special Agent, Federal Bureau of Investigation

SUBSCRIBED AND SWORN to before me on May 13, 2011.

/s/Thomas Rawles Jones, Jr.
THOMAS RAWLES JONES, JR.
UNITED STATES MAGISTRATE JUDGE